

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Quintin Littlejohn,)	C/A No. 6:04-2547-RBH
)	
Petitioner,)	
)	
vs.)	ORDER
)	
George Gintoli; and Henry McMaster,)	
)	
Respondents.)	
)	

Petitioner, proceeding *pro se*, brings this complaint pursuant to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02, this matter was referred to United States Magistrate Judge William M. Catoe for pretrial handling. On October 21, 2004, respondents filed a motion for summary judgment. By order filed November 8, 2004, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), petitioner was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the petitioner elected not to respond to the motion. As the petitioner is proceeding *pro se*, the Court filed a second order on January 10, 2005, giving the petitioner an additional twenty (20) days in which to file his response to the motion for summary judgment. The petitioner was specifically advised that if he failed to respond, this action would be dismissed for failure to prosecute. The petitioner elected not to respond.

In accordance with 28 U.S.C. § 1915, 28 U.S.C. § 1915A, 28 U.S.C. § 636(b)(1)(B), and Local Civil Rule 73.02 this matter comes before the Court with the Report and Recommendation of United States Magistrate Judge William M. Catoe, filed March 20, 2005. This Court is charged with making

a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b).

Based on his review of the record, the Magistrate Judge concluded that the plaintiff's action should be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. That Magistrate Judge advised petitioner of the procedures and requirements for filing objections to the Report. The petitioner has failed to file any objections.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to him with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 1999 (4th Cir. 1983).

The Court has reviewed the Report, pleadings, memoranda, and applicable law. The Court adopts the Report and Recommendation of the Magistrate Judge and incorporates it herein by reference. Accordingly, this case is dismissed pursuant to Rule 41(b) for failure to prosecute.

IT IS SO ORDERED.

(Signature on Following Page.)

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

April 19, 2005
Florence, SC